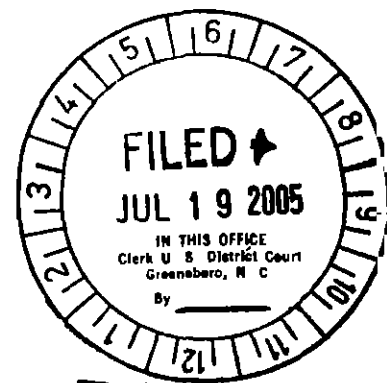


IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



Cornelius Tucker,

Petitioner,

v

Admin Rowland,

Respondent(s)

1:05CV00631

ORDER TO FILE AND REQUIRING ANSWER FROM RESPONDENT

Petitioner, a frequent litigator and prisoner of the State of North Carolina, has submitted a petition under 28 U S C § 2254 for writ of habeas corpus by a person in state custody, together with a request to proceed in forma pauperis. In reliance upon the representations set forth in the request, it appears that petitioner is unable to pay the \$5 00 filing fee for this action. It also appears that petitioner is challenging convictions for traffic offenses which occurred in the late 1980's in Forsyth County. The motion form reveals that he was given an 18 months sentence and his driver's license was revoked. He has apparently served the sentence, and the only remaining effect of the convictions is that he must pay a fee to have his license reinstated. It thus appears that petitioner is not "in custody" pursuant to section 2254 as a result of these convictions. Respondent may therefore choose to file a motion to dismiss rather than file an answer on the merits of the claims.

IT IS THEREFORE ORDERED that petitioner's request to proceed in forma pauperis is granted. Respondents shall file an answer or motion to dismiss with this Court, pursuant to Rules 4 and 5, Rules governing Section 2254 Cases, within 40 days of the docketing of this Order.

/s/ P. Trevor Sharp
United States Magistrate Judge

Date July 19, 2005